



Michael J. O'Neill

*Bill Analysis*  
Legislative Service Commission

## **H.B. 350**

123rd General Assembly  
(As Introduced)

**Reps. Olman, Perry, Allen, Opfer, Evans, Vesper, Patton, Ford, Britton,  
Verich**

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### **BILL SUMMARY**

- Prohibits a person from debarking or surgically silencing a vicious dog and from possessing a vicious dog if the person knows or has reason to believe that the dog has been debarked or surgically silenced.
- Expands the definition of "deadly weapon" to include a vicious dog that has been debarked or surgically silenced.

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### **CONTENT AND OPERATION**

#### **Dangerous and vicious dogs**

##### **Existing law**

**Failing to control a vicious or dangerous dog.** Existing law contains two prohibitions regarding vicious dogs. The first prohibition prohibits the owner, keeper, or harbinger of a dangerous or vicious dog from failing to do either of the following, except when the dog is lawfully engaged in hunting or training for the purpose of hunting, accompanied by the owner, keeper, or harbinger or a handler (sec. 955.22(D)):

(1) While that dog is on the premises of the owner, keeper, or harbinger, securely confining it at all times in a locked pen that has a top, locked fenced yard, or other locked enclosure that has a top, or tying a dangerous dog with a leash or tether so that the dog is adequately restrained;

(2) While that dog is off the premises of the owner, keeper, or harbinger, keeping it on a chain-link leash or tether that is not more than six feet in length and additionally doing at least one of the following:

(a) Keeping the dog in a locked pen that has a top, locked fenced yard, or

other locked enclosure that has a top;

(b) Having the leash or tether controlled by a person who is of suitable age and discretion or securely attaching, tying, or affixing the leash or tether to the ground or a stationary object or fixture so that the dog is adequately restrained and stationing such a person in close enough proximity to that dog so as to prevent it from causing injury to any person;

(c) Muzzling the dog.

If a violation of the first prohibition involves a dangerous dog, a person who violates that prohibition is guilty of a misdemeanor of the fourth degree on a first offense and of a misdemeanor of the third degree on each subsequent offense. Additionally, the court may order the offender to personally supervise the dangerous dog that the offender owns, keeps, or harbors, to cause that dog to complete dog obedience training, or to do both. The court also may order the offender to obtain liability insurance pursuant to the second prohibition (see below). The court, in the alternative, may order the dangerous dog to be humanely destroyed by a licensed veterinarian, the county dog warden, or the county humane society. (Sec. 955.99(F).)

If a violation of the first prohibition involves a vicious dog, a person who violates that prohibition is guilty of one of the following (sec. 955.99(G)):

(1) A felony of the fourth degree on a first or subsequent offense if the dog kills or seriously injures a person. Additionally, the court must order that the vicious dog be humanely destroyed by a licensed veterinarian, the county dog warden, or the county humane society.

(2) A misdemeanor of the first degree on a first offense and a felony of the fourth degree on each subsequent offense. Additionally, the court may order the vicious dog to be humanely destroyed by a licensed veterinarian, the county dog warden, or the county humane society.

(3) A misdemeanor of the first degree if the dog causes injury, other than killing or serious injury, to any person.

**Liability insurance for a vicious dog.** The second prohibition prohibits an owner, keeper, or harbinger of a vicious dog from failing to obtain liability insurance providing coverage in each occurrence, subject to a limit, exclusive of interest and costs, of not less than \$50,000 because of damage or bodily injury to or death of a person caused by the vicious dog. A person who violates this second prohibition is guilty of a misdemeanor of the first degree. (Secs. 955.22(E) and

955.99(H).)

**Operation of the bill**

The bill adds an additional prohibition regarding vicious dogs. The bill prohibits a person from debarking or surgically silencing a vicious dog and from possessing a vicious dog if the person knows or has reason to believe that the dog has been debarked or surgically silenced. A person who violates this new prohibition is guilty of a felony of the fourth degree. (Secs. 955.22(F) and 955.99(J).)

**Definition of deadly weapon**

Under existing law, for the purposes of the Weapons Control Laws, "deadly weapon" means any instrument, device, or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried, or used as a weapon. The bill expands this definition to include a vicious dog that has been debarked or surgically silenced. (Sec. 2923.11(A).)

Over 30 sections of the Revised Code refer to "deadly weapon," including sections that prohibit possessing or conveying deadly weapons into specified places (e.g., secs. 2921.36 (illegal conveyance of weapons onto the grounds of a detention facility or a mental health or mental retardation and developmental disabilities facility), 2923.122 (conveyance or possession of deadly weapons or dangerous ordnance in a school safety zone), and 2923.123 (illegal conveyance, possession, or control of a deadly weapon or dangerous ordnance into a courthouse)) and sections that enhance a penalty or lower the threshold criteria for committing the offense if an offense is violated by means of a deadly weapon (e.g., secs. 2903.11 (felonious assault), 2911.01 (aggravated robbery), and 2911.11 (aggravated burglary)).

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**COMMENT**

As used in the bill (sec. 955.22(A) by reference to sec. 955.11--not in the bill):

(1) "Dangerous dog" means a dog that, without provocation, has chased or approached in either a menacing fashion or an apparent attitude of attack, or has attempted to bite or otherwise endanger any person, while that dog is off the premises of its owner, keeper, or harbinger and not under the reasonable control of its owner, keeper, harbinger, or some other responsible person, or not physically restrained or confined in a locked pen that has a top, locked fenced yard, or other locked enclosure that has a top. "Dangerous dog" does not include a police dog

that has chased or approached in either a menacing fashion or an apparent attitude of attack, or has attempted to bite or otherwise endanger any person while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties.

(2) "Vicious dog" means a dog that, without provocation, has killed or caused injury to any person, has killed another dog, or belongs to a breed that is commonly known as a pit bull dog.<sup>1</sup> "Vicious dog" does not include either of the following:

(a) A police dog that has killed or caused injury to any person while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties;

(b) A dog that has killed or caused serious injury to any person while a person was committing or attempting to commit a trespass or other criminal offense on the property of the owner, keeper, or harbinger of the dog.

(3) "Without provocation" means that a dog was not teased, tormented, or abused by a person, or that the dog was not coming to the aid or the defense of a person who was not engaged in illegal or criminal activity and who was not using the dog as a means of carrying out such activity.

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-20-99	p. 699

H0350-I.123/jc

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<sup>1</sup> *The ownership, keeping, or harboring of a pit bull dog is prima-facie evidence of the ownership, keeping, or harboring of a vicious dog.*